

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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JAN KONOPCA,

Civil No:3:15-cv-1900-FLW-LHG

Plaintiff,

AMENDED COMPLAINT
FOR VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT

-against-

DEMAND FOR JURY TRIAL

HRB TAX GROUP, INC.,

Defendant.
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Plaintiff JAN KONOPCA ("Plaintiff"), by and through his attorneys, The Law Office of Alan J. Sasson, P.C., as and for his Amended Complaint against the Defendant HRB TAX GROUP, INC., (hereinafter referred to as "Defendant"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) under Title 47 of the United States Code, §227 commonly known as the Telephone Consumer Protection Act (TCPA). Plaintiff filed this action against H&R Block, Inc. after having received autodialed calls to his cell phone from H&R Block. Upon information and belief, the subject phone calls were actually dialed by Defendant HRB Tax Group, Inc. This Complaint is amended as of right, pursuant to FRCP 15(a).

PARTIES

2. Plaintiff is a resident of the State of New Jersey, County of Monmouth, residing in Long Branch, New Jersey.

3. Defendant HRB Tax Group, Inc. is a corporation incorporated under the laws of the State of Missouri, with its principal place of business at One H&R Block Way, Kansas City, Missouri 64105.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to 28 USC §1331.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

6. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “5” herein with the same force and effect as if the same were set forth at length herein.
7. On information and belief, on a date better known to Defendant, Defendant began its campaign of communicating with the Plaintiff via the use of an automated telephone dialing system and prerecorded messages throughout the past four years by calling his cell phone number of (732)222-2222 numerous times seeking a third party.
8. The Defendant called from numerous phone numbers, including but not limited to (800)861-9287, (800)472-5625, and (866)293-7222, all of which numbers belongs to Defendant.
9. Plaintiff confirmed these phone numbers as belonging to the Defendant by calling the phone numbers and being greeted by a female computerized voice stating: “Welcome to H&R Block.” Plaintiff would further be thanked for visiting H&R Block, and would be invited to complete a short survey.

10. Defendant's phone calls would further solicit return calls to the phone number of 1(800)861-9287, which number belongs to the Defendant.

11. Defendant specifically used an automated telephone dialing system and prerecorded messages to call the Plaintiff on his cell phone on February 4, 2012, February 5, 2012 and February 11, 2012 amongst numerous other dates.

12. The Defendant's prerecorded messages left on the Plaintiff's cell phone on those dates would vary but would typically repeat in a female robotic voice:

"Hello, this is a courtesy call from H&R Block for Max [unintelligible] regarding your tax experience in our office. Please call us back at 1(800)861-9287. Again, this is H&R Block, and our number is 1(800)861-9287."

13. Another automated and prerecorded message repeatedly left on Plaintiff's cellular phone would typically repeat in a female robotic voice:

"Hello, this is H&R Block, calling to remind Heather [unintelligible] about your upcoming tax preparation appointment scheduled for Friday, February 6, at 12:00 p.m. at our Main Street location. To confirm this appointment, please press 1, or if you wish to change this appointment, please press zero to speak with a representative. You have made an invalid selection. To confirm this appointment, please press 1, or if you wish to change this appointment, please press zero to speak with a representative. You have made an invalid selection. To confirm this appointment, please press 1, or if you wish to change this appointment, please press zero to speak with a representative. You have made an invalid selection. Thank you, and we look forward to seeing you on Friday, February 6, at 12:00 p.m. Goodbye."

14. Plaintiff further received automated and prerecorded messages for surveys on his cellular phone, which would typically repeat in a female robotic voice:

"Good evening. This is a courtesy call from H&R Block. Para continuar en espanol oprima dos. Thank you for coming in to H&R Block this year. We highly value your opinion regarding your recent visit. Please take the next two minutes to complete a seven question survey. If you wish to repeat a statement prior to scoring, press the star key. Please answer each statement using the keypad in your touchtone phone by entering a scale of

- 1 to 4, where 1 is completely disagree, 2 is somewhat disagree, 3 is somewhat agree and 4 is completely agree. Just remember, the higher the number, the higher your satisfaction. Statement 1: I received a friendly greeting when entering the office. [Pause]. Statement 1: I received a friendly greeting when entering the office. [Pause]. Statement 1: I received a friendly greeting when entering the office. [Pause]. I'm sorry, I'm not able to process your response at this time but thank you for attempting to complete the survey. Goodbye."
15. The Plaintiff never gave the Defendant his prior, express permission to call his cell phone via the use of an automated telephone dialing system. Upon information and belief, Plaintiff has never provided his cell phone number to Defendant or had any credit card, store card or other business relationship with the Defendant.
16. Plaintiff had no wish to be contacted on his cell phone via the use of an autodialer, and expressly directed Defendant to stop calling his cell phone number on numerous occasions.
17. By placing auto-dialed calls and prerecorded messages to the Plaintiff's cell phone, the Defendant violated 47 USC §227(b)(A)(iii) which prohibits using any automated telephone dialing system or an artificial prerecorded voice to any telephone number assigned to a cellular telephone service when calling to the plaintiff's cell phone.
18. The Defendant therefore willfully violated the TCPA numerous times by placing autodialled calls and prerecorded messages to the Plaintiff's cell phone without his prior, express consent.

FIRST CAUSE OF ACTION
(Violations of the TCPA)

19. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs

numbered “1” through “18” herein with the same force and effect as if the same were set forth at length herein.

20. Defendant’s debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).

21. As a result of Defendant’s violations of the TCPA, Plaintiff has been damaged and is entitled to damages in accordance with the TCPA.

DEMAND FOR TRIAL BY JURY

22. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant as follows:

A. For mandatory statutory damages of \$500 each provided and pursuant to 47 USC §227(c)(2)(G)(3)(B), for all calls placed to the Plaintiff’s cellular phone;

B. Plaintiff requests enhanced trebled damages of \$1,500 to be awarded to the Plaintiff per call, in accordance with the TCPA, for the Defendant’s willful violations of the TCPA;

C. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
May 11, 2015

Respectfully submitted,

LAW OFFICE OF ALAN J. SASSON, P.C.

By: /s/ Yitzchak Zelman
Yitzchak Zelman, Esq. (YZ5857)
ATTORNEYS FOR PLAINTIFF
1669 East 12 Street
Brooklyn, New York 11229
Phone: 718-339-0856
Fax: 347-244-7178
Email: yzelman@Sassonlaw.com